IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1783 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KARATH VILLAGE PANCHAYAT - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR TUSHAR MEHTA for Petitioner(s) : 1,
Mr.Neeraj Soni, AGP for Respondent(s) : 1,
NOTICE NOT RECD BACK for Respondent(s) : 2,
MR PRANAV V SHAH for Respondent(s) : 2 - 3.
NOTICE SERVED for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 30/11/2006

ORAL JUDGMENT

1. The petitioner - Karath Village Panchayat,

through its the then Sarpanch, has preferred the present petition for challenging the notification dated 12.12.97 for bifurcation of village Karath into two gram panchayats namely Karath and Kali Mahudi Puniya Gram Panchayat. The aforesaid notification came to be issued on 12.12.97.

2. When the petition came to be entertained for the first time on 10.3.88 together with the order for issuance of the notice, status-quo was also ordered to be issued.

3. Thereafter, on 8.12.98 this Court (Coram : K.R.Vyas, J) had passed the following order :

> "Rule. In view of the fact that in the affidavit-in-reply it has been pointed out that the petitioner panchayat has, in fact, passed a resolution for bifurcating of village in question, which is not controverted by the petitioner by filing rejoinder, in my opinion, no case is made out for continuing the interim relief. Interim relief granted earlier stands vacated."

4. Thereafter, the period of six years has passed and by this time fresh elections must have taken place and the elected body, based on the decision of the government for bifurcation and after constitution of new two villages Gram Panchayats, must be holding the office.

5. If the Gram Panchayat itself has passed the resolution for bifurcating and if the bifurcating has in fact already been made and by afflux of time the new two Gram Panchayats / Village Panchayats are constituted, no useful purpose would be served in examining the other questions which are raised in this petition pertaining to the challenge for bifurcation.

6. Even otherwise also, when the decision of the government for bifurcating is already given effect and when this Court vacated the interim relief vide order dated 8.12.98 did not specifically provide for the further action of bifurcation subject to the final order passed by this Court in the petition, if interference is made to the impugned decision, the consequence may arise for putting the whole clock back and it may further adversely affect the rights of elected representatives and other residents of the area though they are not parties to the proceedings.

7. Under the above circumstances, I find that the petition deserves to be disposed of as having become infructuous by afflux of time. Hence, disposed of accordingly. Rule discharged. No order as to costs.

(JAYANT PATEL, J)

srilatha